

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANTHONY L. ROBERTS,

Petitioner,

v.

Case No. 08-C-808

LARRY L. JENKINS,

Respondent.

ORDER

On September 25, 2008, Anthony Roberts filed this petition pursuant to 28 U.S.C. § 2254, asserting that his current confinement violates the Constitution. Roberts is currently incarcerated at the Redgranite Correctional Institution. Under Rule 3 of the Rules Governing § 2254 Cases, the petitioner is required to file an affidavit of indigence as required by § 1915. Roberts claims he is unable to pay the filing fee because he is incarcerated and unemployed, and has no income or assets. Roberts initially submitted a Trust Account Activity Statement, though it was not his. (Dkt. #6 at 1.) He has since provided a copy of his Trust Account Activity Statement. (Dkt. #8.)

Unlike the filing fee for other civil actions, the filing fee for a petition seeking habeas corpus is only \$5.00. 28 U.S.C. § 1914(a). Roberts' account statement shows his balance as of October 20, 2008, was only \$0.60. Although his average monthly balance over the last six months is higher, \$21.27, as are his average monthly deposits, \$25.88, he currently is without the funds to pay the \$5.00 filing fee. I am not satisfied that he lacks sufficient funds to proceed here. Based upon his

average monthly deposits, he should not have any difficulty paying the \$5.00 filing fee. Roberts will therefore be granted 30 days within which to pay the \$5.00 filing fee. Failure to pay the required fee will result in dismissal of his petition.

SO ORDERED this 24th day of October, 2008.

s/ William C. Griesbach

WILLIAM C. GRIESBACH
United States District Judge